UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TENNESSEE AT KNOXVILLE

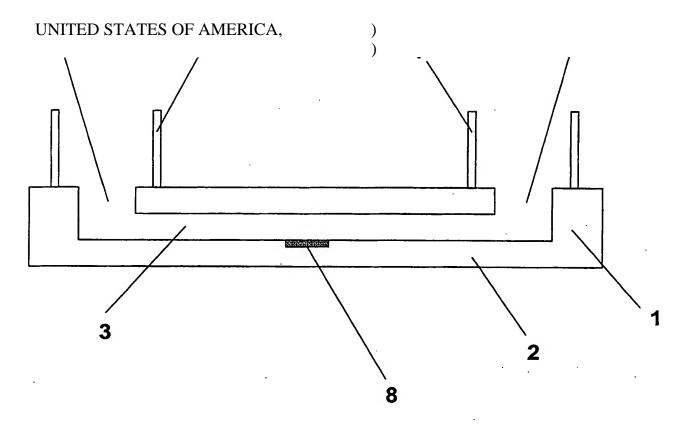


Figure 1

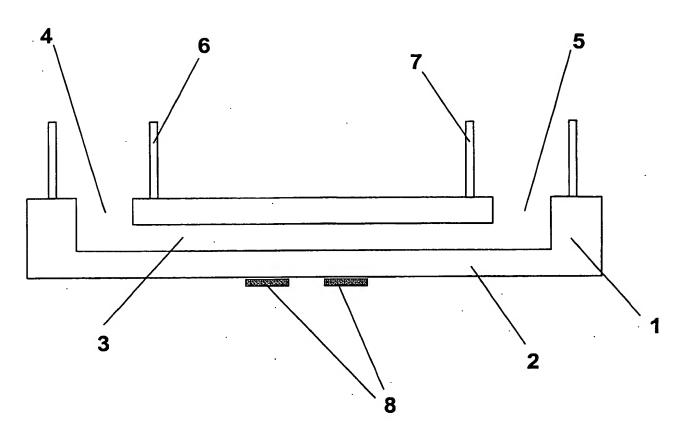


Figure 2

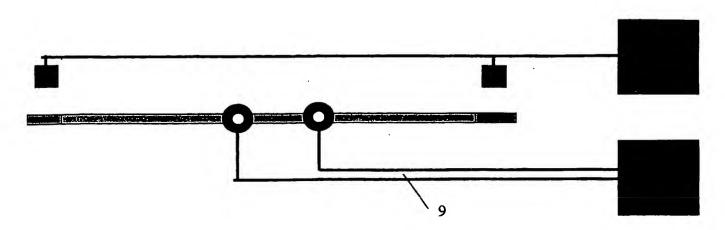


Figure 3

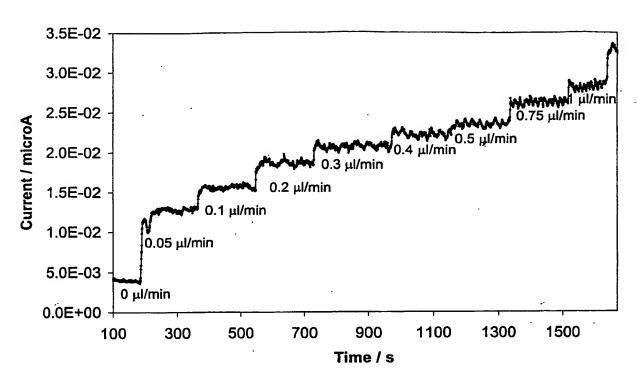


Figure 4

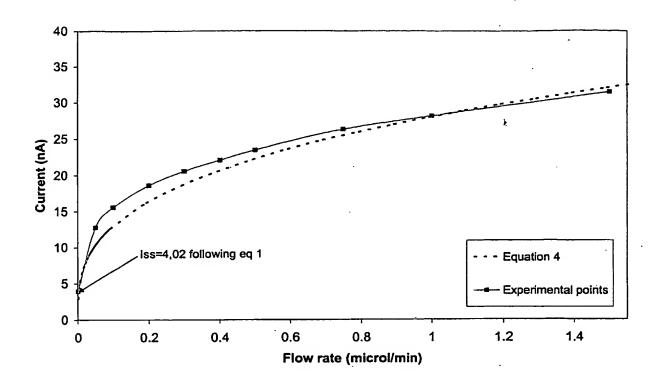


Fig. 5

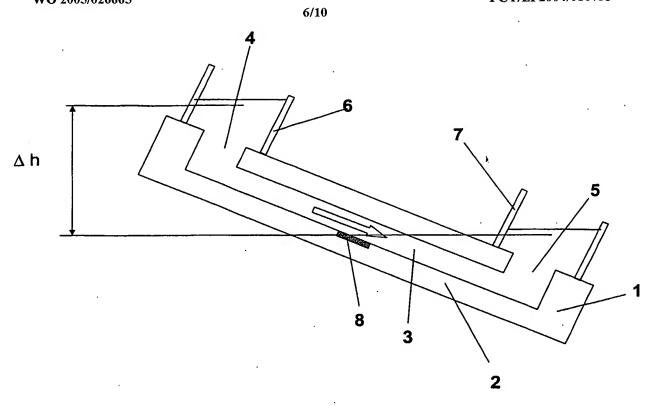


Fig. 6

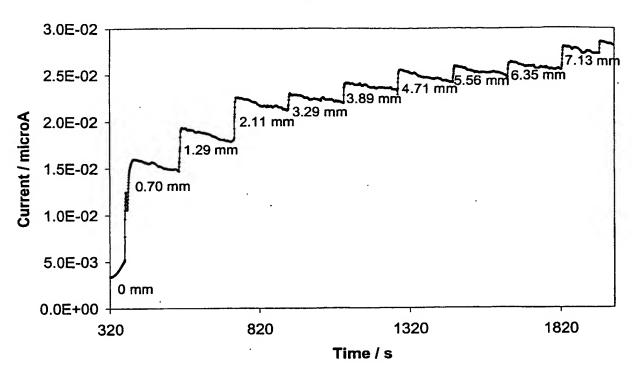


Fig. 7

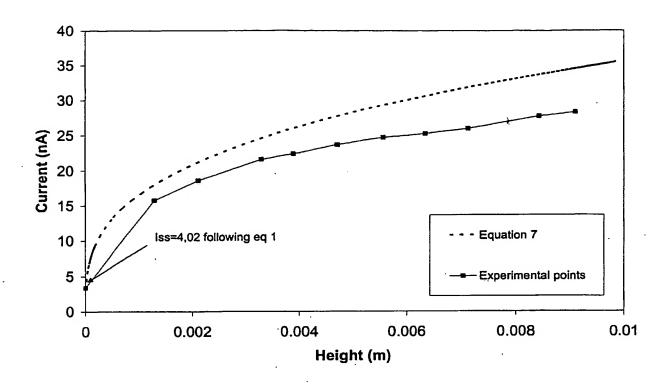


Fig. 8

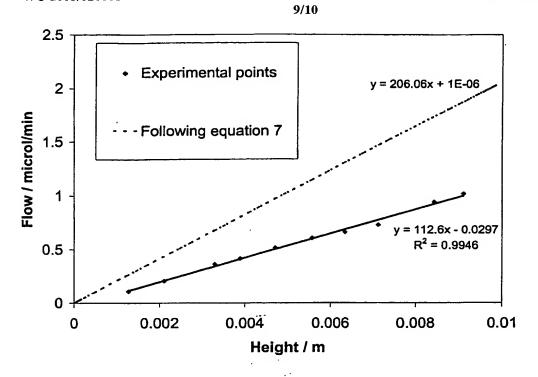


Fig. 9

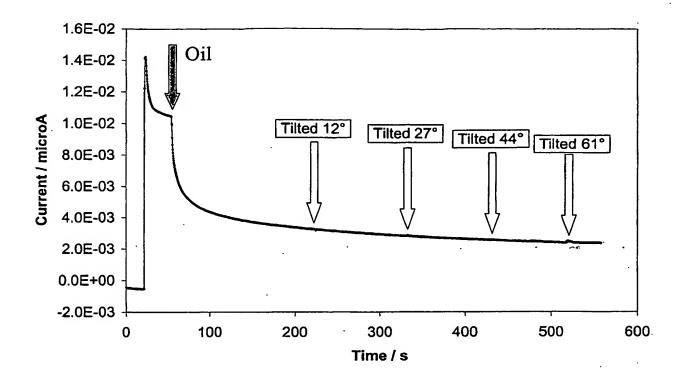


Fig. 10

The government agrees that Ms. Kincaid's friendship with Guzman's mother has no bearing on this case. Yet, the government points out that what may be relevant is that Ms. Kincaid and Henry worked for Guzman at Maryville Pain Management, which is allegedly where they learned how to operate a pain clinic. Furthermore, the government contends that Ms. Kincaid opened Breakthrough Pain Clinic to compete with Guzman. The government avers that while it will not attempt to hold the instant defendants accountable for Guzman's actions, it should not be wholly precluded from referring to the fact that Ms. Kincaid and Henry started in the pain clinic business at Maryville Pain Management, and some of their customers moved with them from Maryville Pain Management to Breakthrough Pain Clinic.

Without knowing the context in which this evidence is offered, the Court cannot conclude whether it is admissible or inadmissible.⁵ Thus, the Court will **DENY** this motion [Doc. 152] with leave to renew it during the course of trial. *Amir*, 2011 WL 3862013, at *1 (citing *Ind. Ins. Co.*, 326 F. Supp. 2d at 846).

G. Motion in Limine to Suppress Photographs of Prescription Bottles and References to Defendant Randy Kincaid's Sexual Activity [Doc. 153]

Ms. Kincaid moves the Court to exclude photographs of prescription pill bottles found at her residence and evidence or testimony that Randy Kincaid ("Mr. Kincaid"), her husband and co-defendant, engaged in extramarital sexual activity with individuals at

⁵ For example, as the government admits, the Guzman conspiracy cannot be used to establish guilt on the part of the instant defendants. Yet, the fact that Ms. Kincaid and Henry allegedly took what they learned while working at Maryville Pain Management and started their own pain clinic may be relevant, depending on the context in which such evidence is offered.

Breakthrough Pain Clinic. This evidence, according to Ms. Kincaid, is irrelevant to the allegations in the indictment and presents a danger of unfair prejudice, confusing the issues, or misleading the jury that substantially outweighs any probative value it may have.

The government responds that this evidence is relevant because the numerous prescription pill bottles found throughout Ms. Kincaid's residence either contained or had contained Schedule II controlled medications and a number of the bottles indicated that they had been prescribed for individuals other than Mr. or Ms. Kincaid. According to the government, such evidence is consistent with its allegations of illegal possession and distribution of controlled substances. In addition, the government contends that the evidence of Mr. Kincaid's sexual activity is relevant because the government will offer evidence at trial that Mr. Kincaid received sexual favors from drug addicts at Breakthrough Pain Clinic in exchange for oxycodone.

The Court finds that the photographs of prescription pill bottles, some of which were for individuals other than Mr. and Mrs. Kincaid and most of which were for Schedule II controlled substances, are relevant in terms of making more probable the fact that Ms. Kincaid was engaged in the illegal possession and distribution of controlled substances. Moreover, Mr. Kincaid's alleged sexual activity in exchange for controlled substances makes more probable the fact that Breakthrough Pain Clinic was an illicit drug distribution operation. Finally, though this evidence might present a danger of unfair prejudice, confusing the issues, or misleading the jury if offered in certain

contexts, the Court cannot say that in all contexts the prejudicial effect of this evidence would substantially outweigh its probative value under Rule 403, and thus the Court **DENIES** this motion [Doc. 153].

III. Conclusion

For the reasons explained herein, the Court hereby:

- 1. **DENIES** the Motion in Limine to Exclude Firearms Obtained by Government Agents from Defendant Dustin Morgan's Residence [Doc. 147];
- 2. **DENIES** the Motion in Limine by Defendant Dustin Morgan to Exclude the Term "Pill Mill" [Doc. 148];
- 3. **DENIES** the Motion in Limine by the Defendant Dustin Morgan to Preclude Introduction of Evidence Seized from His Residence, Evidence Seized from a Safe Deposit Box at Alcoa-Tenn. Federal Credit Union and Testimony Regarding His Banking Activities [Doc. 149];
- 4. **DENIES** with leave to renew during the course of trial the Motion in Limine to Preclude Evidence of Alleged Threats Made by Defendant Dustin Morgan [Doc. 150];
- 5. **DENIES** with leave to renew during the course of trial the Motion in Limine to Suppress References to Tamral Guzman, Maryville Pain Clinic, LLC, and/or References to *United States v. Tamral Guzman* [Doc. 152]; and
- 6. **DENIES** the Motion in Limine to Suppress Photographs of Prescription Bottles and References to Defendant Randy Kincaid's Sexual Activity [Doc. 153].

The Motion in Limine Regarding Testimony of Special Agent Stanley Neil Jones [Doc. 151] has been referred to United States Magistrate Judge H. Bruce Guyton for his consideration and determination [Doc. 165].

IT IS SO ORDERED.

s/ Thomas A. Varlan
CHIEF UNITED STATES DISTRICT JUDGE